

[REDACTED]

CERTIFIED MAIL

[REDACTED]

DEC 05 1989

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(4).

The information submitted indicates that you were formed as an unincorporated association as an entity for a condominium development. Your sole purpose is to collect fees for the unit owners within the particular development and then use the fees to pay for common expenses of the development. These expenses include office expenses, telephone, management fees, supplies, swimming pool, gas and electric, trash removal, water and sewer, landscaping, repairs, snow removal, taxes, insurance and miscellaneous.

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated for the promotion of social welfare if it promotes, in some way, the common good and general welfare of the people of the community. An organization described in this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

In Revenue Ruling 74-17, 1974-1, C.B., an organization was formed by unit owners of a condominium housing project and was operated to provide for the management, maintenance, and care of the common areas of the project. Its income was from membership assessments and its disbursements were operating expenses. The organization did not qualify for exemption under section 501(c)(4) because the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners derive from, and are established by, statutory and contractual provisions and are inextricably, and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. Additionally, condominium ownership involves the maintenance and care of common areas which necessarily constitutes the provision of private benefits for unit owners.

Based on the information submitted, we have determined that your organization is operating essentially in the same manner as the organization described in Revenue Ruling 74-17 and therefore does not qualify for exemption under section 501(c)(4) and are a taxable entity.

You are required to file federal income tax returns on Form 1120.

Section 528 of the Internal Revenue Code deals with organizations which are "homeowners' associations". The term "homeowners' association" for purposes of this section means (a) an organization which is a condominium management association or a residential real estate management association if such organization is organized and operated to provide for the acquisition, construction, management, maintenance and care of association property, (b) 60% or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from owners of residential units of a condominium management association, (c) 90% or more of the expenditures of the organization are expenditures for the acquisition, construction, management, maintenance, and care of association property, and (d) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual and (e) such organization elects to have this section apply for the taxable year.

We are enclosing a copy of Publication 588 which provides information on section 528 if you want to consider electing to be covered by this provision of the Code.

If you do not accept our findings regarding your exempt status under section 501(c)(4), we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office. If we do not hear from you, you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this letter will become our final determination on this matter.

Sincerely yours,

  
  
District Director

Enclosures:  
Publication 892, Publication 588